

## REMARKS

By this Amendment, Applicant has canceled claims 2, 8, and 14-58 without prejudice or disclaimer; amended claims 1, 3, 7, and 10; and added new claims 59-61. No new matter has been added. Claims 1, 3-7, 9-13, and 59-61 are pending.

In the Office Action, the Examiner acknowledged Applicant's election without traverse to prosecute Group I, claims 1-13; rejected claims 3-13 under 35 U.S.C. § 112, second paragraph; rejected claims 1 and 3, under 35 U.S.C. § 102(b) as being anticipated by Ohnishi et al. (U.S. Patent No. 6,125,087); rejected claims 7, 9, 11, and 12 under 35 U.S.C. § 102(b) as being anticipated by Meyers (U.S. Patent No. 5,715,091); rejected claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Ohnishi et al. in view of Meyers; rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Ohnishi et al. in view of Maruyama (U.S. Patent No. 5,838,497); rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Meyers; rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Meyers in view of Maruyama; and indicated that claims 2 and 8 contain allowable subject matter.

With respect to the rejection of claims 3-13 under 35 U.S.C. § 112, second paragraph, the Examiner asserts that with respect to claims 3 and 10, "it is unclear as to what the phrase 'and/or' defines . . ." Office Action at 2. Applicant has amended claims 3 and 10 to recite in pertinent part, "an information recording or an information reproducing apparatus or both," as suggested by the Examiner. Therefore, Applicant respectfully requests reconsideration and withdrawal of the § 112, second paragraph, rejection with respect to those claims.

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With respect to the § 112, second paragraph, rejection of claim 7, the Examiner asserts that "it is unclear as to what the phrase 'of a using wavelength of the light source' defines . . . ." Office Action at 2. Applicant has amended claim 7 to recite in pertinent part, "of a wavelength of a light source used with the optical element," as suggested by the Examiner. Therefore, Applicant respectfully requests reconsideration and withdrawal of the § 112, second paragraph, rejection of claim 7.

Applicant appreciates the Examiner's indication that claims 2 and 8 contain allowable subject matter. Applicant has incorporated the subject matter of claim 2 into claim 1, and the subject matter of claim 8 into claim 7.

Accordingly, Applicant respectfully submits that amended claims 1 and 7 are allowable. Furthermore, Applicant submits that claims 3-6, 9-13, and new claims 59-61 are allowable by virtue of their dependency on claims 1 and 7, as well by their additional recitations of novel and non-obvious subject matter.

Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of pending claims 1, 3-7, 9-13, and 59-61.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicant's representative at 571-203-2739.

Applicant respectfully submits that the Office Action contains numerous assertions relating to the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

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Please grant any extensions of time required to enter this response and charge  
any additional required fees to our Deposit Account No. 6-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
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Dated: September 8, 2003

By:   
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